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EXAMINER	
CHOI, FRANK I	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/990,611	MEISNER, LORRAINE FAXON	
	Examiner	Art Unit	
	FRANK I. CHOI	1616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 May 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-8,10-12,15-18,21,23-25 and 27-31* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-8,10-12,15-18,21,23-25 and 27-31* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 27-31 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The phrase "physical, non-chemical manipulation" is not supported by the Specification. In fact , claim 31 indicates that the stabilization results from an equilibrium reaction between ascorbic acid and monodehydroascoribic acid. This is a chemical reaction, as such, the claim cannot exclude chemical stabilization.

Claims 18, 21, 23-25, 28, 30, 31 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for the disclosed process of pretreating the ascorbic acid and ascorbic acid which has been pretreated according to said process in the disclosed amounts and temperatures, does not reasonably provide enablement for other processes of pretreating the ascorbic acid or ascorbic acid pretreated by other processes. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention commensurate in scope with these claims.

The invention is directed to pretreatment of ascorbic acid. The prior art does not appear to disclose pretreatment of ascorbic acid as disclosed in the Specification as such predictability in the art appears to be low. The Specification does not appear to disclose any other method of pretreating ascorbic acid. The claims are broad in that they indicated "pretreatment" but do not define the same in the claim. The phrase "stabilized by dissolution in water at relatively high temperature and concentration" does not rendered the claim enabled since there is no indication as what would constitute a relatively high temperature or concentration. As such, one of ordinary skill in the art would be required to due undue experimentation in order to determine what other methods would be suitable for pretreating the ascorbic acid which results in the same or similar characteristics of the disclosed invention.

Claims 18,21, 23-25, 28, 30, 31 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are the process steps by which the ascorbic acid is pretreated. The Specification explicitly discloses that between 10% and 50% of the ascorbic acid is pretreated and/or stabilized by heating a specified concentration of ascorbic acid at a specified temperature range and pH of at least 3.5 (Pg. 6, lines, 30-33, Pg. 7). The Specification does not appear to disclose or suggest alternative methods of pretreating the ascorbic acid, as such, the process appears to be critical to the invention and should be included in the claims.

See Superguide Corp. v. DirecTV Enterprises, Inc., 69 USPQ2d 1865, 1868 (Fed. Cir. 2004) ("Though understanding the claim language may be aided by explanations contained in the written description, it is important not to import into a claim limitations that are not part of the

claim. For example, a particular embodiment appearing in the written description may not be read into a claim when the claim language is broader than the embodiment."); E-Pass Techs., Inc. v. 3Com Corp., 67 USPQ2d 1947, 1950 (Fed. Cir. 2003) ("Interpretation of descriptive statements in a patent's written description is a difficult task, as an inherent tension exists as to whether a statement is a clear lexicographic definition or a description of a preferred embodiment. The problem is to interpret claims in view of the specification' without unnecessarily importing limitations from the specification into the claims."); Altiris Inc. v. Symantec Corp., 65 USPQ2d 1865, 1869-70 (Fed. Cir. 2003) (Although the specification discussed only a single embodiment, the court held that it was improper to read a specific order of steps into method claims where, as a matter of logic or grammar, the language of the method claims did not impose a specific order on the performance of the method steps, and the specification did not directly or implicitly require a particular order). The description of "pretreatment" contains some description which is set forth in terms of "relatively", "typically", "preferably", "generally" "if". As such, it appears that the definition of "pretreatment" may include both essential and nonessential processes. Since it is unclear which are essential and which are not, it is improper to read into the claim the description of "pretreatment" as limitations in the claim. Further, the phrase "stabilized by dissolution in water at relatively high temperature and concentration" does not address the problem as there is no indication as what would constitute a relatively high temperature or concentration. Thus, specific limitations should be set forth in the body of the claim itself".

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1,3-8, 10-12, 15-18, 21, 23-25, 27-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schinitsky et al. (US Pat. 4,938,969) in view of Murad (US Pat. 5,804,594), Herstein (US Pat. 5,902,591), Kalus et al. and Bassford et al. (US Pat. 2,517,276).

Schinitsky et al. teach a composition and method to reduce epidermal wrinkling resulting from photo-aging comprising ascorbic acid (about 2-20%), tyrosine (about 1-10%) and zinc sulfate (about 0.5-5%) in a pharmaceutically acceptable vehicle, for example, hydrophilic lotion, ointment, cream or gel, which is applied once or twice daily (Column 2, lines 38-53, Column 4, lines 34-45, Claims 1, 2).

Murad teaches a composition for treatment of skin overexposed to sunlight and wrinkles comprising a sugar, such a N-acetylglucoseamine or glucoseamine, amino acids, such as cysteine, methionine or N-acetyl cysteine, ascorbic acid, and a zinc compound, such as zinc sulfate (Column 4, lines 62-68, Columns 5, 6, Column 7, lines 30-41, Column 9, lines 3-7). It is taught that the composition may be formulated as a cream, paste, gel, ointment, solution or suspension in an aqueous liquid, oil-in-water emulsion or a water-in-oil emulsion by any methods of pharmacy which can be applied topically (Column 8, lines 43-49, Column 9, lines 34-45). It is taught that the sugar and amino acids assist in thickening the dermis and supplementing collagen and elastic tissues which reduces wrinkling and lines (Column 5, lines 5-18). It is taught that the addition of ascorbic acid inhibits collagenase and elastase, enzymes

which break down collagen and elastic tissues, and assist in the reducing the occurrence of additional wrinkles and facilitate the healing of skin tissues (Column 5, lines 18-22). It is taught that zinc binds collagen fibers and inhibits elastase, an enzyme that also breaks down collagen and elastic tissue (Column 5, lines 22-24).

Herstein teaches that a pH within 3.5 to 4.1 is preferred to facilitate entry of ascorbic acid into the skin and stabilize the ascorbic acid molecule (Column 2, lines 40-47, Column 10, lines 6-17).

Kalus et al. disclose that ascorbic acid will form semidehydroascorbic acid in the presence of oxygen or metals (abstract).

Bassford et al. disclose a methods of purifying ascorbic acid in which one of the steps includes dissolving ascorbic acid in distilled water at 60 degrees Celsius, for example 105 g in 140 cc, 100 g in 140 cc, 30 g in 30 cc (Column 4, lines 16-33, Column 5, lines 60-76, Columns 6-8). It is disclosed that when preparing pharmaceutical compounds it is generally advisable to effect the final purification by crystallizing a first crop of pure material in the conventional manner which is disclosed as being Experiment B (Column 3, lines 30-35, Column 5, lines 60-68, Column 6, lines 39-76, Column 7).

The difference between the prior art and the claimed invention is that the prior art does not expressly disclose the combination of at least 10% of ascorbic acid, non-toxic zinc salt, water and pH of 3.5 to 4.1. However, the prior art amply suggests the same as the prior art discloses the combination of ascorbic acid and zinc, the use of ascorbic acid up to 20% and that a pH of 3.5 to 4.1 is preferred to facilitate entry of ascorbic acid into the skin. Further, the prior art discloses the preparation of pure ascorbic acid for pharmaceutical use in which one of the steps

includes dissolving ascorbic acid in water at 60 degrees Celcius. As such, it would have been well within the skill of and one of ordinary skill in the art would have been motivated to modify the prior art as above with the expectation that the same would facilitate entry of ascorbic acid into the skin and that the combination would be effective in treating or protecting against skin damage due to exposure to the sun. Further, one of ordinary skill in the art would be motivated to prepare the ascorbic acid according to the process in Bassford with the expectation that the product would sufficiently pure for pharmaceutical purposes. Finally, one of ordinary skill in the art would expect that if ascorbic acid present and the composition is exposed to oxygen or contains metals i that there would be an equilibrium reaction to form monodehydroascorbic acid.

Examiner has duly considered Applicant's arguments but deems them unpersuasive for the reasons of record set forth in the prior Office Actions and the further reasons below.

The Supreme Court in KSR International Co. v. Teleflex Inc., held the following:

(1) the obviousness analysis need not seek out precise teachings directed to the subject matter of the challenged claim and can take into account the inferences and creative steps that one of ordinary skill in the art would employ;

(2) the obviousness analysis cannot be confined by a formalistic conception of the words teaching, suggestion and motivation, or by overemphasis on the importance of published articles and the explicit content of issued patents;

(3) it is error to look only the problem the patentee was trying to solve-any need or problem known in the filed of endeavor at the time of invention and addressed by the prior art can provide a reason for combining the elements in the manner claimed;

(4) it is error to assume that one of ordinary skill in the art in attempting to solve a problem will be led only to those elements of prior art designed to solve the same problem-common sense teaches that familiar items may have obvious uses beyond their primary purposes, and in many cases one of ordinary skill in the art will be able to fit the teachings of multiple patents together like pieces of a puzzle (one of ordinary skill in the art is not automaton);

(5) it is error to assume that a patent claim cannot be proved obvious merely by showing that the combination of elements was "obvious to try". KSR International Co. v. Teleflex Inc., 82 USPQ2d 1385, 1396, 1397 (U.S. 2007).

As such, the Applicant's arguments relative to motivation are not applicable and do not overcome the rejection herein. Further, the Applicant's arguments lower the skilled artisan to the level of an automaton incapable of critically reading the prior art and combining and/or modifying the same to arrive at the claimed invention.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

The Applicant acknowledges that Schinitsky et al. teaches the combination of tyrosine (an amino acid), ascorbic acid and a non-toxic zinc salt (Reply (2/13/2007), page 7). The Applicant then argues that one of ordinary skill in the art having only Schinitsky before would have to go through a convoluted multistep procedure. The Applicant provides no evidence and no caselaw that supports that one of ordinary skill in the art would be required to go through this procedure. In the first instance, one of ordinary skill in the art is presumed to have full knowledge of the prior art in his field of endeavor and the ability to select and utilize knowledge from analogous arts (See Lamont v. Berguer, 7 USPQ2d 1580, 1582 (Bd.Pat. Ap. & Int. 1988). The Applicant provides no reason why Schinitsky's teachings of ascorbic acid percentages of 2% to 10% would have to be disregarded in view of the fact that the disclosed 10% reads on the claimed amount of 10% in claim 1. Further, the combined teachings of the prior art, as indicated above, disclose and/or suggest that amounts of ascorbic acid greater than 10% are effective in treating acne, redness and rosacea. The Applicant provides no reasoning as why of one of ordinary skill in the art would have spontaneously assume, without prompting, that pH values of a composition should be of importance when Herstein, as indicated above, discloses the importance of pH. The Applicant provides no reasoning why Schinitsky's teaching of the necessity of zinc sulfate would have to be disregarded when the claims do not exclude zinc sulfate. The Applicant provides no reasoning why one of ordinary skill in the art would have to spontaneously assume that the composition needs an amino sugar when Murad, as indicated above, provides reasons for including aminosugars.

Applicant argues that in Murad ascorbic acid must be used in combination with amino acids, however, Applicant's claims do not exclude the use of amino acids. Applicant cites to

various preferred examples or embodiments, however, disclosed examples and preferred embodiments do not constitute a teaching away from a broader disclosure or nonpreferred embodiments. In re Susi, 169 USPQ 423 (CCPA 1971).

Applicant argues that Murad does not teach or suggest ascorbic acid be used in absence of at least one transition metal, such as zinc. However, Applicant's claims do not exclude the use of transition metals or zinc. Further, there is no requirement that Murad disclose a pH of between 3.5 and 4.1. Furthermore, the Applicant provides no reason why the ascorbic acid percentages of 5% to 10% would have be disregarded when 10% reads on the claimed amount of 10%. As indicated above, amounts of ascorbic acid greater than 10% are also disclosed or suggested by the prior art for the treatment of acne, redness and rosacea. Also, Murad, as indicated above, discloses the benefits of ascorbic acid and sugars, as such, one of ordinary skill in the art would have been motivated to combine the same with the expectation that the combination would exhibit the disclosed benefits. As such, as with the Schinitsky reference, the Applicant's convoluted procedure is neither required by the claims nor the caselaw.

The Applicant provides no reason why one of ordinary skill in the art would have to disregard all of Herstein's teachings of usefulness or desirability of other ingredients in view of the fact that the Applicant's claims are open to addition of other ingredients. The Applicant provides no reason why one of ordinary skill in the art could not select the teaching of Herstein with respect to pH in view of the fact that Herstein discloses that the pH facilitates absorption of ascorbic acid into the skin or why one of ordinary skill in the art would have to selectively cull said teaching. The Applicant provides no reasoning why one of ordinary skill in the art would

not be able to adjust compositions to have a pH of 3.5 to 4.1 in view of the fact the prior art discloses pHs of compositions in said range.

The Examiner has set forth the reasons for combining and/or modifying the prior art as indicated above. Clearly, one of ordinary skill in the art having knowledge of chemistry, biology and pharmaceutical sciences, would understand from the prior art the effects of UV radiation on the skin, including wrinkling and inflammation, the effectiveness of ascorbic acid on treatment of the same as well the use of ascorbic acid to treat other skin inflammations, such as acne and rosacea. Further, one of ordinary skill in the art would understand that other active agents can be combined with the ascorbic acid, such as aminosugars, including glucosamine, to assist the ascorbic acid in treating the skin. Finally, one of ordinary skill in the art would understand that a pHs falling within the claimed range would increase the effectiveness of ascorbic acid by facilitating entry of the ascorbic acid in the skin. As indicated above, the Applicant's convoluted steps of that one of ordinary skill in the art would be required to do to arrive at the claimed invention neither warranted by the caselaw or teachings of the prior art. See KSR v. Teleflex, Slip Opinion at pages 14, 17 (the inferences and creative steps that a person of ordinary skill in the art would employ can be taken into account; one of ordinary skill in the art is not an automaton).

With respect to claims 3-8, 10-12, 15-17, 21, 23-24, 25, 27-31, the Applicant provides no argument except to indicate claim differentiation. Said argument fails to indicate how the claims avoid the prior art, as such, the rejection over said claims is maintained.

With respect to claim 18, the Applicant does not indicate how the Examiner's characterization of the disclosures of Schinitsky, Murad, Herstein, Bassford, Darr and Yue are traversed. Darr and Yue are not part of the rejection herein.

Therefore, the claimed invention, as a whole, would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made, because every element of the invention has been collectively taught by the combined teachings of the references.

Claims 1,3-8, 10-12, 15-18, 21, 23-25, 27-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schinitsky et al. (US Pat. 4,938,969) in view of Murad (US Pat. 5,804,594), Darr et al. (US Pat. 5,140,043), Kalus et al. and Bassford et al. (US Pat. 2,517,276).

Schinitsky et al. teach a composition and method to reduce epidermal wrinkling resulting from photo-aging comprising ascorbic acid (about 2-20%), tyrosine (about 1-10%) and zinc sulfate (about 0.5-5%) in a pharmaceutically acceptable vehicle, for example, hydrophilic lotion, ointment, cream or gel, which is applied once or twice daily (Column 2, lines 38-53, Column 4, lines 34-45, Claims 1, 2).

Murad teaches a composition for treatment of skin overexposed to sunlight and wrinkles comprising a sugar, such a N-acetylglucoseamine or glucoseamine, amino acids, such as cysteine, methionine or N-acetyl cysteine, ascorbic acid, and a zinc compound, such as zinc sulfate (Column 4, lines 62-68, Columns 5, 6, Column 7, lines 30-41, Column 9, lines 3-7). It is taught that the composition may be formulated as a cream, paste, gel, ointment, solution or suspension in an aqueous liquid, oil-in-water emulsion or a water-in-oil emulsion by any methods of pharmacy which can be applied topically (Column 8, lines 43-49, Column 9, lines 34-45). It is taught that the sugar and amino acids assist in thickening the dermis and

supplementing collagen and elastic tissues which reduces wrinkling and lines (Column 5, lines 5-18). It is taught that the addition of ascorbic acid inhibits collagenase and elastase, enzymes which break down collagen and elastic tissues, and assist in the reducing the occurrence of additional wrinkles and facilitate the healing of skin tissues (Column 5, lines 18-22). It is taught that zinc binds collagen fibers and inhibits elastase, an enzyme that also breaks down collagen and elastic tissue (Column 5, lines 22-24).

Darr et al. discloses that a pH of no more than about 3.5 ensures that greater than 82% of the ascorbic acid remins in the protonated, uncharged form and faciliates entry of ascorbic acid into the skin and stabilizes the ascorbic acid molecule (Column 3, lines 17-33, Column 4, lines 7-18, claims 1-42). Darr et al. discloses that at even at a pH of 4.5, a 5% solution of ascorbic acid remains quite stable and that at a pH of 4.2, 5% ascorbic acid remained stable (Column 5, lines 1-27).

Kalus et al. and Bassford et al. is cited for the same reasons as above and are incorporated herein to avoid repetition.

The difference between the prior art and the claimed invention is that the prior art does not expressly disclose the combination of at least 10% of ascorbic acid, aminosugar, water and pH of 3.5 to 4.1. However, the prior art amply suggests the same as the prior art discloses the combination of ascorbic acid and glucosamine, the use of ascorbic acid up to 20% and a pH of about 3.5 and that at pHs of 4.2 and 4.5, a 5% solution of ascorbic acid remained stable. As such, it would have been well within the skill of and one of ordinary skill in the art would have been motivated to modify the prior art as above with the expectation that a solution of ascorbic acid at a pH of about 3.5 would be stable and that the combination would be effective in treating

or protecting against skin damage due to exposure to the sun. Further, one of ordinary skill in the art would be motivated to prepare the ascorbic acid according to the process in Bassford with the expectation that the product would sufficiently pure for pharmaceutical purposes. Finally, one of ordinary skill in the art would expect that if ascorbic acid present and the composition is exposed to oxygen or contains metals i that there would be an equilibrium reaction to form monodehydroascorbic acid.

The Examiner has duly considered the Applicant's arguments but deems them unpersuasive for the reasons above and the further reasons below.

The Applicant makes the general note that the disclosure in Darr that transition metal ions catalyze oxidative degradation would appear to teach away from the combination with Murad that discloses the necessity of a transition metal component. However, the Applicant provides no evidence that Darr excludes the use of transition metals. Further Murad specifically indicates that ascorbic acid is suitable for use in the composition in Murad as indicated above. As such, in light of the teachings of the prior art above, including teachings as to the benefits of metals, such as zinc, one of ordinary skill in the art would have a reason to use ascorbic acid in combination with metals, such as zinc, notwithstanding any possible degradation if the ascorbic acid due to the presence of transition metal ions.

Therefore, the claimed invention, as a whole, would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made, because every element of the invention has been collectively taught by the combined teachings of the references.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

A facsimile center has been established in Technology Center 1600. The hours of operation are Monday through Friday, 8:45 AM to 4:45 PM. The telecopier number for accessing the facsimile machine is 571-273-8300.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank Choi whose telephone number is (571)272-0610. Examiner maintains a compressed schedule and may be reached Monday, Tuesday, Thursday, Friday, 6:00 am – 4:30 pm (EST).

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Johann R. Richter, can be reached at (571)272-0646. Additionally, Technology Center 1600's Receptionist and Customer Service can be reached at (571) 272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Frank Choi
Patent Examiner
Technology Center 1600
March 18, 2008

/Johann R. Richter/
Supervisory Patent Examiner, Art Unit 1616